

**THE ROSEN LAW FIRM, P.A.**

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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

DONALD RAMSEY, Individually and on  
 Behalf of All Others Similarly Situated,

Plaintiff,

v.

COINBASE GLOBAL, INC., BRIAN  
 ARMSTRONG, ALESIA J. HAAS,  
 JENNIFER N. JONES, SUROJIT  
 CHATTERJEE, PAUL GREWAL, MARC L.  
 ANDREESSEN, FREDERICK ERNEST  
 EHRSAM III, KATHRYN HAUN, KELLY  
 KRAMER, GOKUL RAJARAM, FRED  
 WILSON, AH CAPITAL MANAGEMENT  
 LLC, PARADIGM FUND LP, RIBBIT  
 MANAGEMENT COMPANY, LLC, TIGER  
 GLOBAL MANAGEMENT, LLC, UNION  
 SQUARE VENTURES, LLC, and  
 VIZERION INVESTMENT PTE LTD.,

Defendants.

Case No. 3:21-cv-05634-VC

**MEMORANDUM OF LAW OF  
 MOVANT DARREN WRIGHT IN  
 OPPOSITION TO COMPETING  
 LEAD PLAINTIFF MOTIONS**

**CLASS ACTION**

Judge: Vince Chhabria  
 Hearing: October 28, 2021  
 Time: 2:00 PM  
 Ctrm: 4 – 17th Floor (San Francisco)

[Additional captions below]

1	GABBY KLEIN, On Behalf of All Others	)	Case No. 3:21-cv-06049-VC
2	Similarly Situated,	)	
3		)	Judge: Vince Chhabria
4	Plaintiff,	)	
5		)	
6	v.	)	
7		)	
8	COINBASE GLOBAL, INC., BRIAN	)	
9	ARMSTRONG, ALESIA J. HAAS,	)	
10	JENNIFER N. JONES, SUROJIT	)	
11	CHATTERJEE, PAUL GREWAL, MARC L.	)	
12	ANDREESSEN, FREDERICK ERNEST	)	
13	EHR SAM III, KATHRYN HAUN, KELLY	)	
14	KRAMER, GOKUL RAJARAM, and FRED	)	
15	WILSON,	)	
16		)	
17	Defendants.	)	
18		)	
19	MATTHEW CATTERLIN, On Behalf of All	)	Case No. 3:21-cv-06149-VC
20	Others Similarly Situated,	)	
21		)	Judge: Vince Chhabria
22	Plaintiff,	)	
23		)	
24	v.	)	
25		)	
26	COINBASE GLOBAL, INC., BRIAN	)	
27	ARMSTRONG, SUROJIT CHATTERJEE,	)	
28	PAUL GREWAL, ALESIA HAAS, MARC	)	
	ANDREESSEN, FREDERICK ERNEST	)	
	EHR SAM III, KATHRYN HAUN, KELLY	)	
	KRAMER, GOKUL RAJARAM, FRED	)	
	WILSON, AH CAPITAL, LLC, PARADIGM	)	
	FUND LP, RIBBIT MANAGEMENT	)	
	COMPANY, LLC, TIGER GLOBAL	)	
	MANAGEMENT, LLC, UNION SQUARE	)	
	VENTURES, LLC, and VIZERION	)	
	INVESTMENT PTE LTD.,	)	
		)	
	Defendants.	)	
		)	

1       Darren Wright (“Mr. Wright”) respectfully submits this Memorandum of Law in  
 2       Opposition to Competing Motions to Appoint Lead Plaintiff and Approve Lead Plaintiff’s  
 3       Selection of Counsel. Dkt. Nos. 13, 17, 30, 31, 33, and 46.<sup>1</sup>

4       Ten motions were filed by movants seeking appointment as lead plaintiff and approval of  
 5       lead counsel. Currently, there are only seven competing lead plaintiff motions. *Id.* Only one  
 6       movant, Hsiu-Mei Yu<sup>2</sup> (“Ms. Yu”), claims a larger financial interest than Mr. Wright. The Court  
 7       should not appoint Ms. Yu as she is inadequate—having made two simultaneous lead plaintiff  
 8       motions with different law firms supported with false and conflicting information.

9       In contrast, Mr. Wright, has the second largest financial interest. Mr. Wright has 2,247  
 10       net shares (all purchased on the first day of the Direct Offering and still held) and expended net  
 11       funds of \$897,390. Dkt. No.21-5. Mr. Wright, therefore, has the largest financial interest by the  
 12       two most determinative and clear factors regarding financial interest—purchasing the largest  
 13       amount of net shares and expending the largest amount of net funds connected to the Direct  
 14       Offering. The chart below demonstrates the financial interest of the remaining lead plaintiff  
 15       movants.

16  
 17  
 18  
 19  
 20  
 21       <sup>1</sup> On September 27, 2021, Ms. Yu and Minorka Snow filed a notice of withdrawal to the  
 22       competing motions noting that “on September 20, 2021, [Ms.] Yu filed a separate Motion” for,  
 23       among other things, appointment as lead plaintiff. Dkt. No. 53. On September 28, 2021, Stanislav  
 24       Voronov filed a notice of non-opposition to the competing motions stating that he “does not  
 25       appear to have the largest financial interest in this litigation within the meaning of the PSLRA.”  
 26       Dkt. No. 54. On September 29, 2021, Afshin Nourivand filed a notice of non-opposition to the  
 27       competing motions stating that he “does not appear to have the largest financial interest in the  
 28       relief sought by the class.” Dkt. No. 55.

26       <sup>2</sup> With regards to her motion filed without a second Co-Lead Plaintiff (Dkt. No. 17), Ms. Yu  
 27       received assignments from Wen-Chuan Sung, Wen-Shan Sung, and Wen-Ying Sung, her  
 28       children, transferring all claims, demands, and causes of action from violations under the federal  
 securities laws in connection with their purchases of Coinbase Global, Inc. securities. Dkt. No.  
 17-2.

Movant	Net Shares	Net Funds Expended
Ms. Yu	20,206	\$6,731,654
Mr. Wright	2,247	\$897,390
Steven E. Breitman (“Mr. Breitman”)	2,000	\$704,802
Charles Bethune, III (“Mr. Bethune”)	1,300	\$259,321
Sandhu Chirita (“Mr. Chirita”)	1,050	\$306,269
The McMichael and Casola Group	248	\$858,042
Justin McMichael (“McMichael”)	248	\$595,917
Vincenzo Casola, as Trustee of the Casola Trust (“Casola”)	0	\$262,125
Timothy Flynn (“Mr. Flynn”)	0	\$466,770

Mr. Wright is also a sophisticated investor with over 30 years of investing experience. Dkt. No. 21 at 8. He has a college degree and is a business owner. *Id.* He advises high-net-worth families on how to get their financial houses in order and achieve their financial goals—he is even writing a book on the subject. *Id.* at 9. In short, Mr. Wright should be appointed Lead Plaintiff and his selection of Lead Counsel should be approved.

## ARGUMENT

### **1. MS. YU IS INADEQUATE**

Ms. Yu is inadequate as she filed two self-competing, and materially different, lead plaintiff motions in this action. She has demonstrated that she lacks the ability to control counsel and she lacks a basic understanding of this case.

On September 20, 2021, Ms. Yu filed motion for appointment as lead plaintiff with Minorka Snow as the “Coinbase Investor Group” (the “Group Motion”).<sup>3</sup> Dkt. No. 39. On the same day, Ms. Yu filed another motion for appointment as lead plaintiff with assignments from her children. Dkt. No. 39. *See Tsirekidze v. Syntax-Brilliant Corp.*, 2008 WL 942273, at \*4 (D. Ariz. Apr. 7, 2008) (a group’s “principal member” moved twice with self-competing lead plaintiff

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<sup>3</sup> No specific client-driven reason is provided as to why Ms. Yu decided to team up with Ms. Snow. Ms. Snow’s financial interest, 1,000 net shares purchased and \$364,000 net funds expended, is a small fraction of Ms. Yu’s.

1 motions which “blatant gaffe [did] not bode well for [his] adequacy” and neither of his lead  
2 plaintiff motions were granted).

3 Ms. Yu stated in a declaration filed with her non-group motion, signed under penalty of  
4 perjury (Dkt. No. 17-5 at 5), that she “discuss[ed] the responsibilities of serving as a lead plaintiff  
5 and being satisfied that Levi & Korsinsky, LLP would adequately serve as lead counsel based on  
6 the firm’s experience, resources, and past successes, I signed a retainer agreement with Levi &  
7 Korsinsky, LLP on September 19, 2021.” Dkt. No. 17-5 at 4-5 ¶¶6. Then, on September 20, 2021,  
8 she signed a sworn PSRLA certification with a different law firm which also filed a lead plaintiff  
9 motion on her behalf. Dkt. No. 40-2. This shows that Ms. Yu had no understanding as to what  
10 she was signing.

11 While Ms. Yu attempts to explain away her two motions with a supplemental declaration  
12 (Dkt. No. 57), which features incorrect captions<sup>4</sup>, the supplemental declaration raises more  
13 questions than it answers. Ms. Yu claims she submitted two certifications because the complaints  
14 presented to her were different. Dkt. No. 57 at 3-4 ¶¶ 6-7. This is problematic for a number of  
15 reasons. First, if true, it demonstrates that Ms. Yu did not understand the lead plaintiff process or  
16 the claims in this case. Second, it also demonstrates that she either did not review any complaints  
17 or is incapable of reviewing the complaints with the level of diligence required of a lead plaintiff.  
18 Lastly, Ms. Yu’s explanation is not credible, as she apparently has no issue submitting incorrect  
19 sworn PSLRA certifications with the Court. In her Group Motion she filed a certification which  
20 stated that she “purchased 20,206 shares of Coinbase common stock on April 15, 2021” but that  
21 same certification later lists her trades—those 20,206 shares purchased—*over two days*.<sup>5</sup> Dkt. No.  
22 40-2; *see also* Dkt. No. 40-4. With her non-group motion, her sworn PSLRA certification  
23 includes the same transactions as listed in the Group Motion but identifies the transactions by  
24 account(s), and including assignments from her children for the relevant account(s) and  
25 transactions. Dkt. No. 17-2 at 3-4. These errors in Ms. Yu’s submission further substantially  
26 weigh against her adequacy. *See, Camp v. Qualcomm Inc.*, 2019 WL 3554798, at \*2 (S.D. Cal.

27 <sup>4</sup> See Dkt. No. 56.

28 <sup>5</sup> Dkt. No. 40-2 at 2 ¶4.

Aug. 5, 2019) (finding material errors in movant’s submissions “militate against appointment and render [her] inadequate to serve as lead plaintiff funder Rule 23’s adequacy requirement.”).

In sum, Ms. Yu is inadequate and should be rejected by the Court.

## **2. MR. WRIGHT SHOULD BE APPOINTED LEAD PLAINTIFF**

“The statutory process is sequential: The court must examine potential lead plaintiffs one at a time, starting with the one who has the greatest financial interest, and continuing in descending order if and only if the presumptive lead plaintiff is found inadequate or atypical.” *In re Cavanaugh*, 306 F.3d 726, 732 (9th Cir. 2002). As Ms. Yu is inadequate and her lead plaintiff motion(s) should be denied, the Court must follow this sequential path and consider Mr. Wright because he has the next largest financial interest.

Mr. Wright, 2,247 net shares and \$897,390 of net funds expended on Coinbase stock (all from the first day of the Direct Offering) (Dkt. No.21-5) is the presumptive Lead Plaintiff as he has the remaining largest financial interest *and* satisfies the typicality and adequacy requirements of Rule 23. Mr. Wright should be appointed Lead Plaintiff and his selection of Lead Counsel should be approved.

Courts in this District utilize net shares purchased as the most determinative measure of movants’ financial interests—particularly when the artificial inflation is relatively constant. *See, e.g., In re Network Assocs., Inc. Sec. Litig.*, 76 F.Supp.2d 1017, 1027 (N.D. Cal. 1999) (concluding net shares purchased should be used to determine financial interest as “the candidate with the most net shares purchased will normally have the largest potential damage recovery”). Here, the corrective information is alleged to have entered the market between May 17, 2021 and May 19, 2021. None of the complaints allege partial corrective disclosures prior to May 17, 2021, and thus the artificial inflation remained constant prior to May 17—when the truth was disclosed. Therefore, net shares purchased and net funds expended are a better metric for determining financial interest. *In re Critical Path, Inc. Sec. Litig.*, 156 F.Supp.2d 1102, 1108 (N.D. Cal. 2001) (finding net shares purchased “determinative” of financial interest and that this approach assumes that the “fraud premium,” which is the amount by which the stock is inflated because of the alleged misrepresentations, stayed constant throughout the class period”).

1           Additionally, Mr. Wright *only* purchased his shares on the first day of the Direct Offering,  
 2           which eliminates potential unique standing defenses. In *Pirani v. Slack Techs., Inc.*, 2021 WL  
 3           4258835, at \*2 (9th Cir. Sept. 20, 2021) the Ninth Circuit addressed the question of Section 11  
 4           standing for investors in a direct offering, like Coinbase. There the Court held that a plaintiff  
 5           adequately alleged Section 11 standing by asserting that he purchased on the *date* of the direct  
 6           offering.<sup>6</sup> Additionally, the Ninth Circuit noted in a footnote that the filing of an S-8 registration  
 7           statement for employee shares did not defeat standing because it was speculative that the shares  
 8           at issue were from different registration statements given the facts of that case which included  
 9           that plaintiff purchasing shares on the direct offering date. *Id.* at \*5 n.5. Like Slack, Coinbase  
 10          issued an S-8 registration statement at the time of the Direct Offering<sup>7</sup>, but for those who  
 11          purchased shares after the Direct Offering date, tracing challenges are less speculative.

12          In short, Mr. Wright is not subject to unique standing defenses as he purchased all of  
 13          his shares on the first day of the Direct Offering.

14          As Mr. Wright has made a *prima facie* demonstration of his typicality and adequacy (Dkt.  
 15          No. 21 at 8-9), and has the largest remaining financial interest, Mr. Wright is the  
 16          presumptive lead plaintiff. *Cavanaugh*, 306 F.3d at 732. Because no movant has rebutted the  
 17          presumption in favor of Mr. Wright with proof that he is inadequate or atypical, Mr. Wright  
 18          must be appointed Lead Plaintiff.

### 19          **3. MR. WRIGHT’S SELECTION OF COUNSEL SHOULD BE APPROVED**

20          The PSLRA vests authority in the Lead Plaintiff to select and retain lead counsel, subject  
 21          to the approval of the Court. *See* 15 U.S.C. § 78u-4(a)(3)(B)(v). The Court should interfere with  
 22          Lead Plaintiff’s selection only when necessary “to protect the interests of the class.” 15 U.S.C. §  
 23          78u-4(a)(3)(B)(iii)(II)(aa).

24  
 25  
 26          <sup>6</sup> While that same plaintiff also alleged that he purchased shares several months after the direct  
 27          offering, the majority and the dissent both relied on the allegation that the plaintiff alleged he  
 28          purchased on the date of the direct offering. *Slack Techs., Inc.*, 2021 WL 4258835, at \*2 and \*8.  
<sup>7</sup>[https://www.sec.gov/Archives/edgar/data/0001679788/000162828021006349/coinbaseglobalin](https://www.sec.gov/Archives/edgar/data/0001679788/000162828021006349/coinbaseglobalin%20cs-8.htm)  
 cs-8.htm.

Mr. Wright has selected The Rosen Law Firm, P.A. (“Rosen Law”) as Lead Counsel. Rosen Law has the resources and expertise to litigate this action efficiently and aggressively. As the firm’s resume reflects, it is highly experienced in the area of securities litigation and class actions and has successfully prosecuted numerous securities litigations and securities fraud class actions on behalf of investors. Dkt. Nos. 21 at 9; 21-6. Indeed, Rosen Law is one of the preeminent securities class action law firms in the country. Rosen Law has served as sole and co-lead counsel in numerous cases around the country has recovered hundreds of millions of dollars for investors. Dkt. No. 17-5. In 2019 alone, the ISS Institutional Securities Class Action Services ranked Rosen as the Number 3 securities class action firm both in terms of amount recovered for investors—\$438,340,000—and the number of settlements—12.<sup>8</sup> Founding partner Laurence Rosen was also recognized by Law360 as a Titan of Plaintiffs Bar for 2020.<sup>9</sup>

#### 4. COMPETING MOTIONS SHOULD BE DENIED

The competing motions should be denied as Mr. Wright satisfies the requirements of Rule 23, has the greatest remaining financial interest in the litigation, and should therefore be appointed Lead Plaintiff without further analyses. *Cavanaugh*, 306 F.3d at 732 (“The statutory process is sequential: The court must examine potential lead plaintiffs one at a time, starting with the one who has the greatest financial interest, and continuing in descending order if and only if the presumptive lead plaintiff is found inadequate or atypical.”). That said, some facts bear noting about the competing movants.

The Court should not appoint unrelated groups of lead plaintiffs. “Although the PSLRA allows groups to serve as lead plaintiffs, ‘courts have uniformly refused to appoint as lead plaintiff groups of unrelated individuals, brought together for the sole purpose of aggregating their claims in an effort to become the presumptive lead plaintiff.’” *Tsirekidze*, 2008 WL 942273, at \*3 (quoting *In re Gemstar–TV Guide Int’l, Inc. Sec. Litig.*, 209 F.R.D. 447, 451 (C.D. Cal. 2002)); see also *In re Cloudera, Inc. Sec. Litig.*, 2019 WL 6842021, at \*6 (N.D. Cal. Dec. 16, 2019); *Eichenholtz v. Verifone Holdings, Inc.*, 2008 WL 3925289, at \*7 (N.D. Cal. Aug. 22, 2008).

<sup>8</sup> <https://www.issgovernance.com/file/publications/ISS-SCAS-Top-50-of-2019.pdf>. at p. 6-9.

<sup>9</sup> <https://www.law360.com/articles/1254748/titan-of-the-plaintiffs-bar-rosen-law-firm-s-laurence-rosen>.

Courts require members of a group to make “an evidentiary showing that unrelated members of a group will be able to function cohesively and to effectively manage the litigation apart from their lawyers before its members will be designated as presumptive lead plaintiffs.” *Kniffin v. Micron Tech., Inc.*, 379 F. Supp. 3d 259, 262 (S.D.N.Y. 2019). Courts evaluate evidence of:

(1) the existence of a pre-litigation relationship between group members; (2) involvement of the group members in the litigation thus far; (3) plans for cooperation; (4) the sophistication of its members; and (5) whether the members chose outside counsel, and not vice versa.

*See Id.*; *Varghese v. China Shenghuo Pharm. Holdings, Inc.*, 589 F. Supp. 2d 388, 391 (S.D.N.Y. 2008).

While the McMichael and Casola Group submitted a joint declaration in an effort to meet this burden, their boilerplate declarations are insufficient. The McMichael and Casola Group asserts that their members spoke with each other prior to the lead plaintiff motion being filed, but “what is conspicuously absent [. . .] is any information regarding how these [. . .] apparent strangers [. . .] found each other.” *Stires v. Eco Science Solutions, Inc.*, 2018 WL 5784817, at \*5 (D.N.J. Feb. 14, 2018) (denying lead plaintiff status to an investor group despite their larger losses due, in part, to the group apparently being “precisely the type of lawyer-created group the Third Circuit cautioned about in *In re Cendant Corp.*” whose members “span[] the country’s geography”); *Jakobsen v. Aphria, Inc.*, 2019 WL 1522598, at \*2 (S.D.N.Y. Mar. 27, 2019) (vague plans for cooperation and “boilerplate assurances” are insufficient to show that unrelated investors will be able to manage the litigation efficiently); *Kniffin*, 379 F. Supp. 3d at 263 (court not persuaded by declaration that the group would function cohesively); *In re Ply Gem Holdings, Inc., Securities Litigation*, 2014 WL 12772081, at \*2 (S.D.N.Y. Oct. 14, 2014) (denying appointment of joint lead plaintiffs even though the group filed a joint declaration because “joint lead plaintiffs run counter to the purposes of the PSLRA, which seeks to avoid lawyer-driven litigation” (internal quotation marks omitted) and “[a]llowing lawyers to combine otherwise unrelated entities as joint lead plaintiffs would encourage the lawyers to drive the litigation”); *Takata v. Riot Blockchain, Inc.*, 2018 WL 5801379 (D.N.J. Nov. 6, 2018), *reconsideration*

1 *denied*, 2019 WL 2710273 (D.N.J. June 26, 2019) (denying lead plaintiff status to a group of  
 2 investors because the “joint declaration [did] not allay the [] court’s concerns about appointing a  
 3 loose, attorney-driven group of investors as lead plaintiff.”). Further, there is no client-driven  
 4 reasoning for this grouping, nor the inclusion of additional counsel for Casola.

5 Finally, the Court should not permit the members of the McMichael and Casola Group to  
 6 be considered individually as the McMichael and Casola Group did not request that any of its  
 7 constituents be appointed as lead plaintiff individually in the event the Court did not appoint the  
 8 McMichael and Casola Group. Therefore, none of the individuals themselves “made a motion”  
 9 pursuant to the PSLRA and should not be considered further. *See In re Level 3 Commc’ns, Inc.*,  
 10 2009 WL 10684924, at \*5 (D. Colo. May 4, 2009) (declining to consider individual constituents  
 11 of a group because neither individual “‘made a motion’ in response to the notice of the putative  
 12 class action”); *Tsirekidze*, 2008 WL 942273, at \*4 (declining to consider individual constituent  
 13 of group as lead plaintiff candidate because the group “moved for lead plaintiff as a group and  
 14 will be evaluated as such”); *In re Stitch Fix, Inc. Sec. Litig.*, 393 F. Supp. 3d 833, 836 (N.D. Cal.  
 15 2019) (denying a group’s motion when group members have not explicitly requested to be  
 16 considered individually); *Abouzie v. Applied Optoelectronics, Inc.*, 2018 WL 539362, at \*5 (S.D.  
 17 Tex. Jan. 22, 2018) (group members did not move for appointment as sole-lead, “the Court will  
 18 not consider the suggestion that it select one member of the group. The Court will consider the  
 19 motion of the collective group.”); *Jakobsen*, 2019 WL 1522598, at \*4 (court will not consider  
 20 whether individual group members could be appointed as lead plaintiff as there were no separate  
 21 motions to appoint any member of the group as a lead plaintiff on an individual basis); *Takata*,  
 22 2018 WL 5801379, at \*5 (declining to break apart a group of lead plaintiff movants because the  
 23 group belatedly requested such cure “when confronted with [the] argument that a loosely  
 24 connected group cannot effectively monitor counsel” which did “not assuage the Court’s concerns  
 25 that the attorneys, and not the plaintiffs, have initiated [the] efforts.”).

26 In short, as the *Tsirekidze* Court noted, “[t]here is simply no evidence that this ‘group’ has  
 27 a meaningful connection” and the Court should deny the motions of the McMichael and Casola  
 28 Group. 2008 WL 942273, at \*5.

1 In no way is Mr. Wright conceding or acknowledging that the competing movants are  
2 adequate or that their claims are typical. Mr. Wright reserves the right to address the competing  
3 movant's adequacy or typicality, should the Court reach those motions.

4 **CONCLUSION**

5 For the foregoing reasons, Mr. Wright respectfully requests the Court issue an Order: (1)  
6 consolidating the related actions; (2) appointing Mr. Wright as Lead Plaintiff of the Class; (3)  
7 approving the Mr. Wright's selection of Rosen Law as Lead Counsel; and (4) granting such other  
8 relief as the Court may deem to be just and proper.

9  
10 Dated: October 4, 2021.

Respectfully submitted,

11 **THE ROSEN LAW FIRM, P.A.**

12 /s/Laurence M. Rosen

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16  
17 *Counsel for Movant and [Proposed]*

*Lead Counsel for the Class*

**PROOF OF SERVICE**

I, Laurence M. Rosen, hereby declare under penalty of perjury as follows:

I am the managing attorney of The Rosen Law Firm, P.A., with offices at 355 South Grand Avenue, Suite 2450, Los Angeles, CA 90071. I am over the age of eighteen.

On October 4, 2021 I electronically filed the following **MEMORANDUM OF LAW OF MOVANT DARREN WRIGHT IN OPPOSITION TO COMPETING LEAD PLAINTIFF MOTIONS** with the Clerk of the Court using the CM/ECF system which sent notification of such filing to counsel of record.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 4, 2021.

/s/ Laurence M. Rosen  
Laurence M. Rosen